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TAGS: [KCRM](#) [KWMN](#) [ELAB](#) [PHUM](#) [PGOV](#) [PREL](#) [SMIG](#) [GT](#)

SUBJECT: TIP: INTERIM ASSESSMENT OF GUATEMALA

REF: A. STATE 148925

- [¶](#)B. GUATEMALA 1908
- [¶](#)C. GUATEMALA 1402
- [¶](#)D. GUATEMALA 2194

[¶](#)1. Post submits the following summary (keyed to ref A) of progress made by the GOG in combating trafficking in persons (TIP), specifically in the areas of legislative reform, enforcement, and identification and protection of trafficked victims. The GOG has undertaken serious efforts to address this transnational problem despite limited resources. In view of the substantial actions by the Berger government to improve performance against TIP, Embassy recommends that Guatemala be taken off the Tier 2 Watch List. Such action will not only reinforce past and current efforts but will encourage the GOG to continue its efforts to combat TIP.

[¶](#)2. Legislative Reform: In 2005, the GOG reformed Article 194 of the Penal Code, establishing the crime of trafficking in persons. The Guatemalan Congress has yet to pass and enact legislation to address judicial and prosecutorial concerns regarding Article 194 of the Penal Code. However, Alma de Migoya, Chief of the Prosecutor's Office for Women, Unit of Adolescent and Child Victims, which handles TIP and related crimes, has approached various congressional benches to press for legislative reform to strengthen the government's ability to prosecute and convict trafficking offenders (ref B). While Congress is not likely to reach consensus on any proposed reform during this transition year, Migoya believes that Congress will take action early in the next session, which begins January 2008.

[¶](#)3. Legislative Model: In October, the Ministry of Foreign Affairs hosted a regional two-day seminar focusing on anti-TIP legislation in Central America. The seminar brought together over 30 legislators and judicial experts from the region to draft a model legislative framework to combat TIP. The model legislation will serve as a reference for prospective anti-TIP legislation that will provide a comprehensive framework incorporating prevention, prosecution, and victim protection.

[¶](#)4. Enforcement: The GOG increased efforts to investigate, prosecute, convict, and sentence trafficking offenders. In 2007, the Attorney General's Office prosecuted and sentenced eight individuals, including owners and managers of bars and night clubs, on charges of TIP and related crimes: three for hiring illegal migrants, two for corrupting a minor, and three for procuring sexual services. The Prosecutor's Office for Women, Unit of Adolescent and Child Victims, processed three cases on TIP charges. An arrest warrant was issued in one of the cases. In another case, the accused trafficker was deported under a regional mutual legal assistance treaty on criminal matters.

[¶](#)5. Protection of Victims: The GOG has increased collaboration with NGOs that provide shelter and related

services to victims of trafficking. It has worked closely with NGO Casa Alianza on raids on night clubs and bars to rescue trafficked victims. On September 12, the GOG announced that it will open a new shelter in Guatemala City for undocumented aliens, including victims of trafficking. The four-level shelter will include dormitory space for 240 persons, including special rooms for trafficked victims, a medical exam area, and an office space for National Civil Police agents and immigration authorities. In addition, the GOG installed a 24-hour call center, staffed by trained professional counselors, to assist TIP victims and to provide public information on TIP.

¶6. Identification of Trafficked Victims: The GOG has collaborated closely with civil society on public awareness campaigns and efforts to identify and assist trafficked victims. It has implemented a formal mechanism for identifying trafficked victims among vulnerable populations and for referring victims to appropriate protective services.

Its Standard Operating Procedures, publicly available on the website of the Attorney General's Office, provides instructions on how to process sex crimes, including specific provisions on how to assist TIP victims. The GOG has also collaborated with Mexico, Nicaragua, El Salvador, and Honduras to address the TIP problem, especially in the porous border areas.

¶7. Other Significant Developments: On July 12, the GOG, by government decree, established the Inter-Agency Commission to Combat Trafficking in Persons and Related Crimes, which formalized the status of the existing inter-agency working group (ref C). The Commission, headed by the Vice Minister of Foreign Affairs, is comprised of representatives of various agencies of the Executive, Judiciary, and Congress, as well as NGOs and international organizations. On November 1, the Attorney General's Office announced that it will create a special unit within the Prosecutor's Office Against Organized Crime to investigate and prosecute TIP, including illegal adoptions (ref D).

¶8. Embassy recommends that Guatemala be recognized for these efforts by being removed from the Tier 2 Watch List.
Derham